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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,705	01/26/2001	Christopher S. Gouge	MS155721.2	6801
27195	7590	03/13/2006	EXAMINER	
AMIN & TUROCY, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/770,705	Applicant(s) GOUGE ET AL.	
	Examiner Todd Ingberg	Art Unit 2193	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--


The Appeal Brief filed on 12 December 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Attachment.


 Todd Ingberg
 Primary Examiner
 Art Unit: 2193

Defective Appeal Brief

1. The following defects are noted in the Appeal Brief of December 12, 2005.

On pages 5 and 10 the grounds of rejection are noted as 35 U.S.C. § 103 when the actual grounds are 35 U.S.C. § 101 and 35 U.S.C. § 102.

2. The following **issue** is noted.

On page 13 of the Appeal Brief the Appellant states:

“In the Advisory action (dated September 27, 2005) the Examiner in order to obfuscate the distinction between the cited document and the invention as claimed contends that the “prior art shows the mechanism [by] which DLLs merge with existing software.” The Office takes issue with the statement that the Examiner takes any willful action to ***obfuscate***.

Obfuscate as defined in the Webster’s II New Riverside University Dictionary as issued to employee’s of the USPTO.

1. To make dark or obscure.

2. To confuse

The Examiner’s attempt to explain the technology contained in the reference was not an attempt to obfuscate. The technology which is the basis of the rejection performs the merging code contained in a DLL into an existing program module is not an attempt to cause confusion or obscure. The Examiner’s actions were not an attempt to violate ethical responsibility. The Office requests the Appellant revisit this wording.

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Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd Ingberg whose telephone number is (571) 272-3723. The examiner can normally be reached on during the work week..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'Todd Ingberg', with a long horizontal line extending from the end of the signature.

Todd Ingberg
Primary Examiner
Art Unit 2193

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